

106TH CONGRESS
1ST SESSION

H. R. 2671

To provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1999

Mr. BARRETT of Nebraska introduced the following bill; which was referred to the Committee on Resources

A BILL

To provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Yankton Sioux Tribe
5 and Santee Sioux Tribe of Nebraska Development Trust
6 Fund Act”.

7 **SEC. 2. FINDINGS AND PURPOSES.**

8 (a) FINDINGS.—Congress finds that—

1 (1) by enacting the Act of December 22, 1944,
2 commonly known as the “Flood Control Act of
3 1944” (58 Stat. 887, chapter 665; 33 U.S.C. 701–
4 1 et seq.) Congress approved the Pick-Sloan Mis-
5 souri River Basin program (referred to in this sec-
6 tion as the “Pick-Sloan program”)—

7 (A) to promote the general economic devel-
8 opment of the United States;

9 (B) to provide for irrigation above Sioux
10 City, Iowa;

11 (C) to protect urban and rural areas from
12 devastating floods of the Missouri River; and

13 (D) for other purposes;

14 (2) the waters impounded for the Fort Randall
15 and Gavins Point projects of the Pick-Sloan pro-
16 gram have inundated the fertile, wooded bottom
17 lands along the Missouri River that constituted the
18 most productive agricultural and pastoral lands of,
19 and the homeland of, the members of the Yankton
20 Sioux Tribe and the Santee Sioux Tribe;

21 (3) the Fort Randall project (including the Fort
22 Randall Dam and Reservoir)—

23 (A) overlies the western boundary of the
24 Yankton Sioux Tribe Indian Reservation; and

1 (B) has caused the erosion of more than
2 400 acres of prime land on the Yankton Sioux
3 Reservation adjoining the east bank of the Mis-
4 souri River;

5 (4) the Gavins Point project (including the Gav-
6 ins Point Dam and Reservoir) overlies the eastern
7 boundary of the Santee Sioux Tribe;

8 (5) although the Fort Randall and Gavins Point
9 projects are major components of the Pick-Sloan
10 program, and contribute to the economy of the
11 United States by generating a substantial amount of
12 hydropower and impounding a substantial quantity
13 of water, the reservations of the Yankton Sioux
14 Tribe and the Santee Sioux Tribe remain undevel-
15 oped;

16 (6) the United States Army Corps of Engineers
17 took the Indian lands used for the Fort Randall and
18 Gavins Point projects by condemnation proceedings;

19 (7) the Federal Government did not give
20 Yankton Sioux Tribe and the Santee Sioux Tribe an
21 opportunity to receive compensation for direct dam-
22 ages from the Pick-Sloan program, even though the
23 Federal Government gave 5 Indian reservations up-
24 stream from the reservations of those Indian tribes
25 such an opportunity;

1 (8) the Yankton Sioux Tribe and the Santee
2 Sioux Tribe did not receive just compensation for
3 the taking of productive agricultural Indian lands
4 through the condemnation referred to in paragraph
5 (6);

6 (9) the settlement agreement that the United
7 States entered into with the Yankton Sioux Tribe
8 and the Santee Sioux Tribe to provide compensation
9 for the taking by condemnation referred to in para-
10 graph (6) did not take into account the increase in
11 property values over the years between the date of
12 taking and the date of settlement; and

13 (10) in addition to the financial compensation
14 provided under the settlement agreements referred
15 to in paragraph (9)—

16 (A) the Yankton Sioux Tribe should re-
17 ceive an aggregate amount equal to
18 \$34,323,743 for—

19 (i) the loss value of 2,851.40 acres of
20 Indian land taken for the Fort Randall
21 Dam and Reservoir of the Pick-Sloan pro-
22 gram; and

23 (ii) the use value of 408.40 acres of
24 Indian land on the reservation of that In-
25 dian tribe that was lost as a result of

1 stream bank erosion that has occurred
2 since 1953; and

3 (B) the Santee Sioux Tribe should receive
4 an aggregate amount equal to \$8,132,838 for
5 the loss value of—

6 (i) 593.10 acres of Indian land lo-
7 cated near the Santee village; and

8 (ii) 414.12 acres on Niobrara Island
9 of the Santee Sioux Tribe Indian Reserva-
10 tion used for the Gavins Point Dam and
11 Reservoir.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) INDIAN TRIBE.—The term “Indian tribe”
15 has the meaning given that term in section 4(e) of
16 the Indian Self-Determination and Education Assist-
17 ance Act (25 U.S.C. 450b(e)).

18 (2) PROGRAM.—The term “Program” means
19 the power program of the Pick-Sloan Missouri River
20 Basin program, administered by the Western Area
21 Power Administration.

22 (3) SANTEE SIOUX TRIBE.—The term “Santee
23 Sioux Tribe” means the Santee Sioux Tribe of Ne-
24 braska.

1 (4) TRIBAL PLAN.—The term “Tribal Plan”
2 means a plan developed pursuant to section 6.

3 **SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST**
4 **FUND.**

5 (a) ESTABLISHMENT.—There is established in the
6 Treasury of the United States a fund to be known as the
7 “Yankton Sioux Tribe Development Trust Fund” (re-
8 ferred to in this section as the “Fund”). The Fund shall
9 consist of any amounts deposited in the Fund under this
10 Act.

11 (b) FUNDING.—Out of any money in the Treasury
12 not otherwise appropriated, the Secretary of the Treasury
13 shall deposit \$34,323,743 into the Fund not later than
14 60 days after the date of enactment of this Act.

15 (c) INVESTMENTS.—The Secretary of the Treasury
16 shall invest the amounts deposited under subsection (b)
17 in interest-bearing obligations of the United States or in
18 obligations guaranteed as to both principal and interest
19 by the United States. The Secretary of the Treasury shall
20 deposit interest resulting from such investments into the
21 Fund.

22 (d) PAYMENT OF INTEREST TO YANKTON SIOUX
23 TRIBE.—

24 (1) WITHDRAWAL OF INTEREST.—Beginning at
25 the end of the first fiscal year in which interest is

1 deposited into the Fund, the Secretary of the Treas-
2 ury shall withdraw the aggregate amount of interest
3 deposited into the Fund for that fiscal year and
4 transfer that amount to the Secretary of the Interior
5 for use in accordance with paragraph (2). Each
6 amount so transferred shall be available without fis-
7 cal year limitation.

8 (2) PAYMENTS TO YANKTON SIOUX TRIBE.—

9 (A) IN GENERAL.—The Secretary of the
10 Interior shall use the amounts transferred
11 under paragraph (1) only for the purpose of
12 making payments to the Yankton Sioux Tribe,
13 as such payments are requested by that Indian
14 tribe pursuant to tribal resolution.

15 (B) LIMITATION.—Payments may be made
16 by the Secretary of the Interior under subpara-
17 graph (A) only after the Yankton Sioux Tribe
18 has adopted a Tribal Plan.

19 (C) USE OF PAYMENTS BY YANKTON
20 SIOUX TRIBE.—The Yankton Sioux Tribe shall
21 use the payments made under subparagraph
22 (A) only for carrying out projects and programs
23 under the Tribal Plan.

24 (D) PLEDGE OF FUTURE PAYMENTS.—

1 (i) IN GENERAL.—Subject to clause
 2 (ii), the Yankton Sioux Tribe may enter
 3 into an agreement under which that Indian
 4 tribe pledges future payments under this
 5 paragraph as security for a loan or other
 6 financial transaction.

7 (ii) LIMITATIONS.—The Yankton
 8 Sioux Tribe—

9 (I) may enter into an agreement
 10 under clause (i) only in connection
 11 with the purchase of land or other
 12 capital assets; and

13 (II) may not pledge, for any year
 14 under an agreement referred to in
 15 clause (i), an amount greater than 40
 16 percent of any payment under this
 17 paragraph for that year.

18 (e) TRANSFERS AND WITHDRAWALS.—Except as
 19 provided in subsections (c) and (d)(1), the Secretary of
 20 the Treasury may not transfer or withdraw any amount
 21 deposited under subsection (b).

22 **SEC. 5. SANTEE SIOUX TRIBE OF NEBRASKA DEVELOP-**
 23 **MENT TRUST FUND.**

24 (a) ESTABLISHMENT.—There is established in the
 25 Treasury of the United States a fund to be known as the

1 “Santee Sioux Tribe of Nebraska Development Trust
2 Fund” (referred to in this section as the “Fund”). The
3 Fund shall consist of any amounts deposited in the Fund
4 under this Act.

5 (b) FUNDING.—Out of any money in the Treasury
6 not otherwise appropriated, the Secretary of the Treasury
7 shall deposit \$8,132,838 into the Fund not later than 60
8 days after the date of enactment of this Act.

9 (c) INVESTMENTS.—The Secretary of the Treasury
10 shall invest the amounts deposited under subsection (b)
11 in interest-bearing obligations of the United States or in
12 obligations guaranteed as to both principal and interest
13 by the United States. The Secretary of the Treasury shall
14 deposit interest resulting from such investments into the
15 Fund.

16 (d) PAYMENT OF INTEREST TO SANTEE SIOUX
17 TRIBE.—

18 (1) WITHDRAWAL OF INTEREST.—Beginning at
19 the end of the first fiscal year in which interest is
20 deposited into the Fund, the Secretary of the Treas-
21 ury shall withdraw the aggregate amount of interest
22 deposited into the Fund for that fiscal year and
23 transfer that amount to the Secretary of the Interior
24 for use in accordance with paragraph (2). Each

1 amount so transferred shall be available without fis-
2 cal year limitation.

3 (2) PAYMENTS TO SANTEE SIOUX TRIBE.—

4 (A) IN GENERAL.—The Secretary of the
5 Interior shall use the amounts transferred
6 under paragraph (1) only for the purpose of
7 making payments to the Santee Sioux Tribe, as
8 such payments are requested by that Indian
9 tribe pursuant to tribal resolution.

10 (B) LIMITATION.—Payments may be made
11 by the Secretary of the Interior under subpara-
12 graph (A) only after the Santee Sioux Tribe has
13 adopted a Tribal Plan.

14 (C) USE OF PAYMENTS BY SANTEE SIOUX
15 TRIBE.—The Santee Sioux Tribe shall use the
16 payments made under subparagraph (A) only
17 for carrying out projects and programs under
18 the Tribal Plan.

19 (D) PLEDGE OF FUTURE PAYMENTS.—

20 (i) IN GENERAL.—Subject to clause
21 (ii), the Santee Sioux Tribe may enter into
22 an agreement under which that Indian
23 tribe pledges future payments under this
24 paragraph as security for a loan or other
25 financial transaction.

1 (ii) LIMITATIONS.—The Santee Sioux
2 Tribe—

3 (I) may enter into an agreement
4 under clause (i) only in connection
5 with the purchase of land or other
6 capital assets; and

7 (II) may not pledge, for any year
8 under an agreement referred to in
9 clause (i), an amount greater than 40
10 percent of any payment under this
11 paragraph for that year.

12 (e) TRANSFERS AND WITHDRAWALS.—Except as
13 provided in subsections (c) and (d)(1), the Secretary of
14 the Treasury may not transfer or withdraw any amount
15 deposited under subsection (b).

16 **SEC. 6. TRIBAL PLANS.**

17 (a) IN GENERAL.—Not later than 24 months after
18 the date of enactment of this Act, the tribal council of
19 each of the Yankton Sioux and Santee Sioux Tribes shall
20 prepare a plan for the use of the payments to the Indian
21 tribe under section 4(d) or 5(d).

22 (b) CONTENTS OF TRIBAL PLAN.—Each Tribal Plan
23 shall provide for the manner in which the Indian tribe cov-
24 ered under the Tribal Plan shall expend payments to the
25 Indian tribe under this Act to promote—

- 1 (1) economic development;
- 2 (2) infrastructure development;
- 3 (3) the educational, health, recreational, and so-
- 4 cial welfare objectives of the Indian tribe and its
- 5 members; or
- 6 (4) any combination of the activities described
- 7 in paragraphs (1), (2), and (3).

8 (c) TRIBAL PLAN REVIEW AND REVISION.—

9 (1) IN GENERAL.—Each tribal council referred
10 to in subsection (a) shall make available for review
11 and comment by the members of the Indian tribe a
12 copy of the Tribal Plan for the Indian tribe before
13 the Tribal Plan becomes final, in accordance with
14 procedures established by the tribal council.

15 (2) UPDATING OF TRIBAL PLAN.—Each tribal
16 council referred to in subsection (a) may, on an an-
17 nual basis, revise the Tribal Plan prepared by that
18 tribal council to update the Tribal Plan. In revising
19 the Tribal Plan under this paragraph, the tribal
20 council shall provide the members of the Indian tribe
21 opportunity to review and comment on any proposed
22 revision to the Tribal Plan.

1 **SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS**
2 **AND SERVICES.**

3 (a) IN GENERAL.—No payment made to the Yankton
4 Sioux Tribe or Santee Sioux Tribe pursuant to this Act
5 shall result in the reduction or denial of any service or
6 program to which, pursuant to Federal law—

7 (1) the Yankton Sioux Tribe or Santee Sioux
8 Tribe is otherwise entitled because of the status of
9 the Indian tribe as a federally recognized Indian
10 tribe; or

11 (2) any individual who is a member of a Indian
12 tribe under paragraph (1) is entitled because of the
13 status of the individual as a member of the Indian
14 tribe.

15 (b) EXEMPTIONS FROM TAXATION.—No payment
16 made pursuant to this Act shall be subject to any Federal
17 or State income tax.

18 (c) POWER RATES.—No payment made pursuant to
19 this Act shall affect Pick-Sloan Missouri River Basin
20 power rates.

21 **SEC. 8. STATUTORY CONSTRUCTION.**

22 Nothing in this Act may be construed as diminishing
23 or affecting any water right of an Indian tribe, except as
24 specifically provided in another provision of this Act, any
25 treaty right that is in effect on the date of enactment of
26 this Act, any authority of the Secretary of the Interior

1 or the head of any other Federal agency under a law in
2 effect on the date of enactment of this Act.

3 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums
5 as are necessary to carry out this Act, including such sums
6 as may be necessary for the administration of the Yankton
7 Sioux Tribe Development Trust Fund under section 4 and
8 the Santee Sioux Tribe of Nebraska Development Trust
9 Fund under section 5.

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